IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6464 of 2007

(CRIME NO. 670/2007 OF MANARKKAD POLICE STATION)

PETITIONERS/ACCUSED 1 & 2

1. SATHI @ SATHEESHAN, AGED 30,
S/O. KRISHNANKUTTY MOOTHAN, ONNAKAPARAMBIL (H),
THRIKKALOOR POST, POTTASSERI, MANNARKKAD.

2. UNNIKRISHNAN @ KUTTAN, AGED 25,
S/O. KRISHNANKUTTY MOOTHAN, ONNAKAPARAMBIL (H),
THRIKKALOOR POST, POTTASSERI, MANNARKKAD.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE S.H.O., MANNARKKAD POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY BY PUBLIC PROSECUTOR SRI. S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6464 of 2007

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Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations under Section 326 read with 34 IPC. On account of prior animosity, they are alleged to have caused grievous hurt to the de facto complainant, in furtherance of their common intention. The accused allegedly beat the de facto complainant with dangerous weapons. Fracture of the hand is the injury. The alleged incident took place on 14.10.07. Within two hours, the injured had gone to the doctor. The allegation of assault was revealed. FIR was registered only on 16.10.07. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that totally false allegations are raised against the petitioners. The injured must have suffered injuries in some other manner. He is a drunkard. The injury suffered by him is made use of by him to justify the false and vexatious allegations raised against the petitioners. In these circumstances, it is prayed that anticipatory bail bail may be granted to the petitioners,

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that prompt allegations are made to the doctor, though there was some delay in recording the F.I.Statement. I do not find any circumstances which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the learned Magistrate or the Investigating officer and seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE